

BRODSKY SMITH

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BRETT BAILEY,

Plaintiff,

vs.

CEPTON, INC., JUN PEI, JUN YE,
XIAOGANG ZHANG, TAKAYUKI
KATSUDA, HIDEHARU KONAGAYA,
GEORGE SYLLANTAVOS, and MEI
WANG,

Defendants.

Case No.: 5:24-cv-7581

Complaint For:

- (1) Violation of § 14(a) of the Securities Exchange Act of 1934
- (2) Violation of § 20(a) of the Securities Exchange Act of 1934

JURY TRIAL DEMANDED

Plaintiff, Brett Bailey (“Plaintiff”), by and through his attorneys, alleges upon information and belief, except for those allegations that pertain to him, which are alleged upon personal knowledge, as follows:

SUMMARY OF THE ACTION

1. Plaintiff brings this stockholder action against Cepton, Inc. (“Cepton” or the “Company”) and the Company’s Board of Directors (the “Board” or the “Individual Defendants,” collectively with the Company, the “Defendants”), for violations of Sections 14(a) and 20(a) of the Securities and Exchange Act of 1934 (the “Exchange Act”) as a result of Defendants’ efforts

1 to sell the Company to Koito Manufacturing Co., Ltd. (“Koito”) as a result of an unfair process,
2 and to enjoin an upcoming stockholder vote on a proposed all cash transaction (the “Proposed
3 Transaction”).

4 2. The terms of the Proposed Transaction were memorialized in an July 29, 2024,
5 filing with the Securities and Exchange Commission (“SEC”) on Form 8-K attaching the definitive
6 Agreement and Plan of Merger (the “Merger Agreement”). Under the terms of the Merger
7 Agreement, Cepton stockholders will receive \$3.17 per share in cash.

8 3. Thereafter, on September 25, 2024, the Company filed a Preliminary Proxy
9 Statement on Form PREM14A (the “Proxy Statement”) with the SEC in support of the Proposed
10 Transaction.

11 4. The Proposed Transaction is unfair for a number of reasons. Significantly, it
12 appears as though the Board has entered into the Proposed Transaction to procure for themselves
13 and senior management of the Company significant and immediate benefits. For example: (a)
14 Company insiders own large illiquid blocks of Company stock which will be converted into merger
15 consideration; (b) Company insiders own vested and unvested RSU awards, and other equity
16 awards, all of which are subject to accelerated vesting and conversion into merger consideration;
17 and (c) certain Company executives are entitled to severance packages, often referred to as “golden
18 parachute” packages, entitling same to millions of dollars not shared by Plaintiff and other
19 Company common stockholders.

20 5. The Proxy Statement is materially deficient, deprives Plaintiff of the information
21 necessary to make an intelligent, informed, and rational decision of whether to vote in favor of the
22 Proposed Transaction and is thus in violation of the Exchange Act. As detailed below, the Proxy
23 Statement omits and/or misrepresents material information concerning, among other things: (a)
24 the sales process and in particular certain conflicts of interest for management; (b) the financial
25 projections for Cepton, provided by Cepton management to the Company Board, Special
26 Committee of the Board of Directors (the “Special Committee”), and the Board’s financial advisor,
27 Craig-Hallum Capital Group, LLC (“Craig-Hallum”); and (c) the data and inputs underlying the
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1 financial valuation analyses, if any, that purport to support the fairness opinion created by Craig-
2 Hallum if any, and provided to the Company and the Special Committee.

3 6. Absent judicial intervention, the Proposed Transaction will be consummated,
4 resulting in irreparable injury to Plaintiff.

5 **PARTIES**

6 7. Plaintiff is a citizen of Indiana, and at all times relevant hereto, has been a Cepton
7 stockholder.

8 8. Defendant Cepton provides lidar-based solutions for automotive, smart cities, smart
9 spaces, and smart industrial applications in the United States, Japan, China, and internationally.
10 The Company is incorporated in Delaware and has its principal place of business at 399 West
11 Trimble Road, San Jose, CA 95131. Shares of Cepton common stock are traded on the NASDAQ
12 Capital Markets (“NASDAQ”) under the symbol “CPTN.”

13 9. Defendant Jun Pei (“Pei”) has been Chairperson of the Company at all relevant
14 times. In addition, Defendant Pei serves as the Company’s Co-Founder and Chief Executive
15 Officer (“CEO”).

16 10. Defendant Jun Ye (“Ye”) has been a director of the Company at all relevant times.

17 11. Defendant Xiaogang Zhang (“Zhang”) has been a director of the Company at all
18 relevant times.

19 12. Defendant Takayuki Katsuda (“Katsuda”) has been a director of the Company at
20 all relevant times.

21 13. Defendant Hideharu Konagaya (“Konagaya”) has been a director of the Company
22 at all relevant times.

23 14. Defendant George Syllantavos (“Syllantavos”) has been a director of the
24 Company at all relevant times.

25 15. Defendant Mei Wang (“Wang”) has been a director of the Company at all relevant
26 times.

1 16. Defendants identified in ¶¶ 9 - 15 are collectively referred to as the “Individual
2 Defendants.”

3 17. Non-Party Koito manufactures and markets automotive lighting equipment, aircraft
4 parts, electrical equipment, and other products in Japan.

5 **JURISDICTION AND VENUE**

6 18. This Court has subject matter jurisdiction pursuant to Section 27 of the Exchange
7 Act (15 U.S.C. § 78aa) and 28 U.S.C. § 1331 (federal question jurisdiction) as Plaintiff alleges
8 violations of Sections 14(a) and 20(a) of the Exchange Act. This action is not a collusive one to
9 confer jurisdiction on a court of the United States, which it would not otherwise have. The Court
10 has supplemental jurisdiction over any claims arising under state law pursuant to 28 U.S.C. § 1367.

11 19. Personal jurisdiction exists over each defendant either because the defendant
12 conducts business in or maintains operations in this District or is an individual who is either present
13 in this District for jurisdictional purposes or has sufficient minimum contacts with this District as
14 to render the exercise of jurisdiction over defendant by this Court permissible under traditional
15 notions of fair play and substantial justice.

16 20. Venue is proper in this District pursuant to 28 U.S.C. § 1391, because each of the
17 Individual Defendants, as Company officers or directors, has extensive contacts within this
18 District; for example, the Company maintains its headquarters in this District.

19 **SUBSTANTIVE ALLEGATIONS**

20 ***The Flawed Sales Process***

21 21. As detailed in the Proxy Statement, the process deployed by the Individual
22 Defendants was flawed and inadequate, was conducted out of the self-interest of the Individual
23 Defendants and was designed with only one concern in mind – to effectuate a sale of the Company.

24 22. The Proxy Statement fails to disclose why the Company would agree to a deal that
25 did not include a minority-of-the-majority provision considering Koito owned 30.1% of the
26 Company pre-merger, and Defendant Pei and Defendant Ye entered into voting support
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1 agreements concurrently with the signing of the merger documents effectively giving Koito 62%
2 of the voting power.

3 23. Of significant note, the Company's executive officers, including Defendant Pei
4 (together the "Rollover Stockholders"), will be treated differently than all other stockholders of
5 Cepton, including Plaintiff. Specifically, the Rollover Stockholders will be allowed to roll over
6 their equity into the new entity ("Holdco"), allowing the Rollover Stockholders to continue to reap
7 the benefits of their investments while all other stockholders of the Company, such as Plaintiff,
8 are frozen out of their ownership interests. Notably, the Preliminary Proxy Statement fails to
9 provide information justifying this decision.

10 24. The Proxy Statement is silent as to the nature of the confidentiality agreement
11 entered into between the Company and Koito, whether this agreement differed from any other
12 agreement with potentially interested third parties not specifically mentioned by the Proxy
13 Statement, if so, in all specific manners, including all specific terms of any such included "don't-
14 ask, don't-waive" provisions or standstill provisions contained therein, including, all specific
15 conditions, if any, under which such provisions would fall away

16 25. Further, the Proxy Statement fails to adequately disclose any and all of the
17 communications regarding post-transaction employment during the negotiation of the underlying
18 transaction which must be disclosed to stockholders.

19 26. It is not surprising, given this background to the overall sales process, that it was
20 conducted in an inappropriate and misleading manner.

21 ***The Proposed Transaction***

22 27. On July 29, 2024, Cepton and Koito issued a joint press release announcing the
23 Proposed Transaction. The press release stated, in relevant part:

24 SAN JOSE, Calif.--(BUSINESS WIRE)--Jul. 29, 2024-- Cepton, Inc. ("Cepton" or
25 the "Company") (Nasdaq: CPTN), a Silicon Valley innovator and leader in [high](#)
26 [performance lidar solutions](#), announced today that it has signed a definitive
27 agreement (the "Agreement") providing for the acquisition by KOITO
28 MANUFACTURING CO., LTD. ("Koito") (TSE: 7276), a leading automotive tier

1 one supplier, of all of the outstanding capital stock of the Company not owned by
2 Koito for \$3.17 per share in an all-cash transaction.

3 This press release features multimedia. View the full release
4 here: <https://www.businesswire.com/news/home/20240729802746/en/>

5 Cepton stockholders will receive \$3.17 per share in cash, which represents a
6 premium of approximately 25.3% to the closing price as of Friday, July 26, 2024.
7 The material terms of the transaction will be described in Cepton's current report
8 on Form 8-K, which will be filed with the Securities and Exchange
9 Commission today.

10 The proposed transaction will complement Koito's existing sensor technology
11 roadmap, while providing Cepton with the financial stability and scalability that are
12 crucial to the commercialization of its lidar technology. After the
13 transaction, Cepton will operate as a privately held indirect subsidiary of Koito in
14 the U.S.

15 "I am excited about the next stage of Cepton's growth as we embark on a new
16 journey together with Koito," said Dr. Jun Pei, CEO and Co-founder of Cepton.
17 "Over the past few years, we have achieved many remarkable milestones in product
18 innovation and development, establishing ourselves as one of the most trusted lidar
19 solutions providers in the automotive industry. A significant portion of our efforts
20 were greatly supported by Koito as our long-term partner and investor.

21 "As we carry on our pioneering spirit as a Silicon Valley company and deepen our
22 commitment to driving cutting-edge innovation, leaning on Koito's century-old
23 heritage of engineering rigor will heighten our dedication to delivering quality
24 solutions to customers worldwide. Our partnership with Koito will provide us with
25 unique access to a broader range of opportunities and resources and help us stay
26 resilient to industry challenges in a way no other lidar company can. This will
27 position us as a leading automotive lidar company for years to come,
28 as Cepton continues to execute current automotive programs and actively manage
future OEM initiatives."

Michiaki Kato, President and COO of Koito, said: "We appreciate and are
impressed by the outstanding technical capabilities exhibited by the Cepton team
throughout our years of collaboration. We recognize this proposed transaction is an
essential step toward realization of Koito's vision of 'lighting the way for our
sustainable future.' We are convinced that having Cepton as a member of the Koito
group will significantly enhance the competitiveness of our sensor business.

Under our corporate message of 'Lighting for Your Safety,' Koito has been
contributing to realizing a safe and secure mobility society through 'light' in the
field of automotive lighting equipment and other products. By adding lidar, a sensor
that uses 'light,' to our product lineup, we will contribute to safety and security in
the next-generation mobility society where ADAS and autonomous driving become

popular, and we will aim for sustainable corporate growth by providing even higher value-added products through synergy between automotive lighting equipment and sensor technology.”

Mitch Hourtienne, Chief Commercial Officer at Cepton, adds: “In addition to broadening business platforms for both Koito and Cepton, we expect our partnership to make a positive impact on the overall automotive lidar ecosystem, driving industry standards and accelerating adoption at scale. We are ready to better support our automotive OEM customers in safely deploying lidar-enhanced assisted and autonomous driving platforms through a streamlined and stabilized supply chain, making safe autonomy truly available in every consumer vehicle.”

O’Melveny and Myers LLP is acting as legal advisor to the Company. Craig-Hallum Capital Group LLC is acting as exclusive financial advisor to a special committee of disinterested and independent members of the Company’s board of directors and Cooley LLP is acting as legal advisor to the special committee. Davis Polk & Wardwell LLP and Nishimura & Asahi (Gaikokuho Kyodo Jigyo) are acting as legal advisors to Koito. WTW is acting as HR advisor to Koito.

Closing Conditions and Timing

The Transaction, which has been approved by each company’s Board of Directors and recommended to Cepton’s stockholders by Cepton’s Board of Directors, is expected to close in the first quarter of 2025, subject to approval of Cepton’s stockholders representing at least a majority of the outstanding shares, regulatory approvals, and other customary closing conditions.

Potential Conflicts of Interest

28. The breakdown of the benefits of the deal indicates that Cepton insiders are the primary beneficiaries of the Proposed Transaction, not the Company’s public stockholders such as Plaintiff. The Board and the Company’s executive officers are conflicted because they will have secured unique benefits for themselves from the Proposed Transaction not available to Plaintiff as a public stockholder of Cepton.

29. Company insiders, currently own large, illiquid portions of Company stock, Company RSUs, and Company Options all of which will be exchanged for the merger consideration upon the consummation of the Proposed Transaction, not shared amongst Plaintiff and other public stockholders of the Company as follows:

	Shares of Common Stock Held Directly ⁽¹⁾	Company RSUs ⁽²⁾			Company Options ⁽³⁾		
Name	Number of Shares (#)	Value of Shares (\$)	Number of Shares (#)	Value of Shares (\$)	Number of Shares (#)	Value of Shares (\$)	Total (\$)
Dr. Jun Pei	2,585,019	8,194,510	31,438	99,659	—	—	8,294,169
Dr. Dongyi Liao	30,744	97,458	206,486	654,561	244,921	265,740	1,017,759
Mitchell Hourtienne	—	—	81,486	258,311	35,523	—	258,311
Dr. Jun Ye	2,591,695	8,215,673	—	—	—	—	8,215,673
George Syllantavos	53,592	169,887	10,000	31,700	—	—	201,587
Takayuki Katsuda ⁽⁴⁾	—	—	—	—	—	—	—
Hideharu (Harry) Konagaya ⁽⁴⁾	—	—	—	—	—	—	—
Dr. Mei (May) Wang	17,692	56,084	10,000	31,700	—	—	87,784
Xiaogang (Jason) Zhang	17,692	56,084	10,000	31,700	—	—	87,784

30. Moreover, certain employment agreements with certain Cepton executives entitle such executives to severance packages, should their employment be terminated under certain circumstances. These ‘golden parachute’ packages are significant, and will grant several directors or officers entitled to them millions of dollars, compensation not shared by Plaintiff and will be paid out as follows:

Golden Parachute Compensation					
			Perquisites/ Benefits	Tax Reimbursement	Total
Name	Cash (\$) ⁽¹⁾	Equity (\$) ⁽²⁾	(\$) ⁽³⁾	(\$) ⁽⁴⁾	(\$) ⁽⁵⁾
Dr. Jun Pei	900,000	99,659	18,000	—	1,017,659
Mitchell Hourtienne	280,000	258,311	12,000	—	550,311
Dr. Dongyi Liao	300,000	920,301	12,000	—	1,212,301

31. The Proxy Statement fails to adequately all communications regarding post-transaction employment during the negotiation of the underlying transaction. Communications regarding post-transaction employment during the negotiation of the underlying transaction must be disclosed to stockholders. This information is necessary for Plaintiff to understand potential

1 conflicts of interest of management and the Board, as that information provides illumination
 2 concerning motivations that would prevent fiduciaries from acting solely in the best interests of
 3 the Company's stockholders.

4 32. Thus, while the Proposed Transaction is not in the best interests of Cepton, Plaintiff,
 5 or Company stockholders, it will produce lucrative benefits for the Company's officers and
 6 directors.

7 ***The Materially Misleading and/or Incomplete Proxy Statement***

8 33. The Cepton Board caused to be filed with the SEC a materially misleading and
 9 incomplete Proxy Statement that, in violation the Exchange Act, fails to provide Plaintiff in his
 10 capacity as a Company stockholder with material information and/or provides materially
 11 misleading information critical to the total mix of information available to Plaintiff concerning the
 12 financial and procedural fairness of the Proposed Transaction.

13 *Omissions and/or Material Misrepresentations Concerning the Sales Process leading up*
 14 *to the Proposed Transaction*

15 34. The Proxy Statement fails to disclose material information concerning the process
 16 conducted by the Company and the events leading up to the Proposed Transaction. In particular,
 17 the Proxy Statement fails to disclose:

- 18 a. Why the Company would agree to a deal that did not include a minority-
 19 of-the-majority provision considering Koito owned 30.1% of the
 20 Company pre-merger, and Defendant Pei and Defendant Ye entered into
 21 voting support agreements concurrently with the signing of the merger
 22 documents effectively giving Koito 62% of the voting power;
- 23 b. Why the Company's executive officers, including Defendant Pei (together
 24 the "Rollover Stockholders"), will be treated differently than all other
 25 stockholders of Cepton, including Plaintiff. Specifically, the Rollover
 26 Stockholders will be allowed to roll over their equity into the new entity
 27 ("Holdco"), allowing the Rollover Stockholders to continue to reap the
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benefits of their investments while all other stockholders of the Company, such as Plaintiff, are frozen out of their ownership interests. Notably, the Preliminary Proxy Statement fails to provide information justifying this decision;

c. Whether the confidentiality agreements entered into by the Company with Koito differed from any other unnamed confidentiality agreement entered into between the Company and an interested third parties;

d. All specific conditions under which any standstill provision contained in any entered confidentiality agreement entered into between the Company and potentially interested third parties throughout the sales process, including Koito, would fall away; and

e. Adequately disclose any and all of the communications regarding post-transaction employment during the negotiation of the underlying transaction which must be disclosed to stockholders.

Omissions and/or Material Misrepresentations Concerning Cepton Financial Projections

35. The Proxy Statement fails to provide material information concerning financial projections for Cepton provided by Cepton management to the Company Board and Craig-Hallum and relied upon by Craig-Hallum in its analyses. The Proxy Statement discloses management-prepared financial projections for the Company which are materially misleading.

36. Notably, the Proxy Statement reveals that as part of its analyses, Craig-Hallum reviewed: “reviewed the Management Projections.”

37. The Proxy Statement should have, but fails to provide, certain information in the projections that Cepton management provided to the Company Board and Craig-Hallum. Courts have uniformly stated that “projections ... are probably among the most highly-prized disclosures by investors. Investors can come up with their own estimates of discount rates or [] market multiples. What they cannot hope to do is replicate management’s inside view of the company’s prospects.” *In re Netsmart Techs., Inc. S’holders Litig.*, 924 A.2d 171, 201-203 (Del. Ch. 2007).

38. With regard to the *Management Projections*, the Proxy Statement fails to disclose:

- a. The inputs, metrics, and assumptions used to determine Total Revenue;
- b. The inputs, metrics, and assumptions used to determine Total Cost of Goods Sold;
- c. The inputs, metrics, and assumptions used to determine Gross Profit;
- d. The inputs, metrics, and assumptions used to determine *Margin %*;
- e. The inputs, metrics, and assumptions used to determine Total Operating Expenses; and
- f. The inputs, metrics, and assumptions used to determine Operating Income.

39. The Proxy Statement also fails to disclose a reconciliation of all non-GAAP to GAAP metrics utilized in the projections.

40. This information is necessary to provide Plaintiff, in his capacity as a Company stockholder, with a complete and accurate picture of the sales process and its fairness. Without this information, Plaintiff is not fully informed as to Defendants' actions, including those that may have been taken in bad faith, and cannot fairly assess the process.

41. Without accurate projection data presented in the Proxy Statement, Plaintiff is unable to properly evaluate the Company's true worth, the accuracy of the Craig-Hallum's financial analyses, or make an informed decision whether to vote his shares in favor of the Proposed Transaction. As such, the Board has violated the Exchange Act by failing to include such information in the Proxy Statement.

Omissions and/or Material Misrepresentations Concerning the Financial Analyses by Craig-Hallum

42. In the Proxy Statement, Craig-Hallum describes its fairness opinion and the various valuation analyses performed to render such opinion. However, the descriptions fail to include necessary underlying data, support for conclusions, or the existence of, or basis for, underlying

1 assumptions. Without this information, one cannot replicate the analyses, confirm the valuations
2 or evaluate the fairness opinions.

3 43. With respect to the *Comparable Public Companies Analysis*, the Proxy Statement
4 fails to disclose:

- 5 a. The inputs, metrics, and assumptions used to determine the Total Enterprise Value
6 (“TEV”)/ CY 2024E Revenue utilized for each of the comparable companies;
- 7 b. The inputs, metrics, and assumptions used to determine the TEV/ CY 2025E
8 Revenue utilized for each of the comparable companies;
- 9 c. The specific inputs, metrics, and assumptions used to determine the TEV/ CY
10 2024E Gross Profit utilized for each of the comparable companies; and
- 11 d. The specific inputs, metrics, and assumptions used to determine the TEV/ CY
12 2025E Gross Profit utilized for each of the comparable companies.

13 44. With respect to the *Premiums Paid Analysis*, the Proxy Statement fails to disclose
14 the following:

- 15 a. The specific transactions compared;
 - 16 b. The specific premiums paid for each of the transactions considered;
 - 17 c. The closing price on the last trading day prior to announcement of the
18 transaction or first reference in the public news media about the transaction (the
19 “1-Day Price”) transaction utilized;
 - 20 d. The closing price 7 calendar days prior to announcement of the transaction or
21 first reference in the public news media about the transaction (the “1-
22 Week Price”) for each transaction utilized; and
 - 23 e. The closing price 30 calendar days prior to announcement of the transaction or
24 first reference in the public news media about the transaction (the “1-
25 Month Price”) for each transaction utilized.
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1 exchange or otherwise, in contravention of such rules and regulations as the [SEC]
2 may prescribe as necessary or appropriate in the public interest or for the protection
3 of investors, to solicit or to permit the use of his name to solicit any proxy or consent
4 or authorization in respect of any security (other than an exempted security)
5 registered pursuant to section 78l of this title.

6 51. As such, SEC Rule 14a-9, 17 C.F.R. 240.14a-9, states the following:

7 No solicitation subject to this regulation shall be made by means of any proxy
8 statement, form of proxy, notice of meeting or other communication, written or
9 oral, containing any statement which, at the time and in the light of the
10 circumstances under which it is made, is false or misleading with respect to any
11 material fact, or which omits to state any material fact necessary in order to make
12 the statements therein not false or misleading or necessary to correct any statement
13 in any earlier communication with respect to the solicitation of a proxy for the same
14 meeting or subject matter which has become false or misleading.

15 52. The Proxy Statement was prepared in violation of Section 14(a) because it is
16 materially misleading in numerous respects and omits material facts, including those set forth
17 above. Moreover, in the exercise of reasonable care, Defendants knew or should have known that
18 the Proxy Statement is materially misleading and omits material facts that are necessary to render
19 them non-misleading.

20 53. The Individual Defendants had actual knowledge or should have known of the
21 misrepresentations and omissions of material facts set forth herein.

22 54. The Individual Defendants were at least negligent in filing a Proxy Statement that
23 was materially misleading and/or omitted material facts necessary to make the Proxy Statement
24 not misleading.

25 55. The misrepresentations and omissions in the Proxy Statement are material to
26 Plaintiff, and Plaintiff will be deprived of his entitlement to decide whether to vote his shares in
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1 favor of the Proposed Transaction on the basis of complete information if such misrepresentations
2 and omissions are not corrected prior to the stockholder vote regarding the Proposed Transaction.

3 **SECOND COUNT**

4 **Violations of Section 20(a) of the Exchange Act**

5 **(Against all Individual Defendants)**

6 56. Plaintiff repeats all previous allegations as if set forth in full herein.

7 57. The Individual Defendants were privy to non-public information concerning the
8 Company and its business and operations via access to internal corporate documents, conversations
9 and connections with other corporate officers and employees, attendance at management and
10 Board meetings and committees thereof and via reports and other information provided to them in
11 connection therewith. Because of their possession of such information, the Individual Defendants
12 knew or should have known that the Proxy Statement was materially misleading to Plaintiff in his
13 capacity as a Company stockholder.

14 58. The Individual Defendants were involved in drafting, producing, reviewing and/or
15 disseminating the materially false and misleading statements complained of herein. The Individual
16 Defendants were aware or should have been aware that materially false and misleading statements
17 were being issued by the Company in the Proxy Statement and nevertheless approved, ratified
18 and/or failed to correct those statements, in violation of federal securities laws. The Individual
19 Defendants were able to, and did, control the contents of the Proxy Statement. The Individual
20 Defendants were provided with copies of, reviewed and approved, and/or signed the Proxy
21 Statement before its issuance and had the ability or opportunity to prevent its issuance or to cause
22 it to be corrected.

23 59. The Individual Defendants also were able to, and did, directly or indirectly, control
24 the conduct of Cepton's business, the information contained in its filings with the SEC, and its
25 public statements. Because of their positions and access to material non-public information
26 available to them but not the public, the Individual Defendants knew or should have known that
27 the misrepresentations specified herein had not been properly disclosed to and were being
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1 concealed from Plaintiff and Company, and that the Proxy Statement was misleading. As a result,
2 the Individual Defendants are responsible for the accuracy of the Proxy Statement and are therefore
3 responsible and liable for the misrepresentations contained herein.

4 60. The Individual Defendants acted as controlling persons of Cepton within the
5 meaning of Section 20(a) of the Exchange Act. By reason of their position with the Company, the
6 Individual Defendants had the power and authority to cause Cepton to engage in the wrongful
7 conduct complained of herein. The Individual Defendants controlled Cepton and all of its
8 employees. As alleged above, Cepton is a primary violator of Section 14 of the Exchange Act and
9 SEC Rule 14a-9. By reason of their conduct, the Individual Defendants are liable pursuant to
10 section 20(a) of the Exchange Act.

11 WHEREFORE, Plaintiff demands injunctive relief, in his favor and against the Defendants,
12 as follows:

13 A. Enjoining the Proposed Transaction;

14 B. In the event Defendants consummate the Proposed Transaction, rescinding it and
15 setting it aside or awarding rescissory damages to Plaintiff;

16 C. Directing the Individual Defendants to exercise their fiduciary duties to disseminate
17 a Proxy Statement that does not contain any untrue statements of material fact and that
18 states all material facts required in it or necessary to make the statements contained therein
19 not misleading;

20 D. Awarding Plaintiff the costs of this action, including reasonable allowance for
21 Plaintiff's attorneys' and experts' fees; and

22 E. Granting such other and further relief as this Court may deem just and proper.
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury on all issues which can be heard by a jury.

Dated: November 1, 2024

BRODSKY SMITH

By: Evan J. Smith

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